



State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

Add Point of Diversion

PRIORITY DATE January 1, 1889 (class 27)	WATER RIGHT NUMBER Walla Walla River Adjudicated Certificate No. 349
MAILING ADDRESS Linda Strong 879 Valley Chapel Road Walla Walla, Washington 99362	SITE ADDRESS (IF DIFFERENT)

Total Quantity Authorized for Diversion

MAXIMUM DIVERSION RATE 0.133	UNITS CFS	ANNUAL QUANTITY (AF/YR) 50.7
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Purpose

PURPOSE	DIVERSION RATE	ANNUAL QUANTITY (AF/YR)
Irrigation	0.133 CFS from 04/01 to 07/01 0.133 CFS from 07/01 to 10/01 0.133 CFS from 10/1 to 04/01*	50.7

*when allowed in accordance with the Walla Walla Adjudication

ADDITIVE	IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
	NON-ADDITIVE		WATER SYSTEM ID	CONNECTIONS
13				

Source Location

COUNTY		WATERBODY		TRIBUTARY TO		WATER RESOURCE INVENTORY AREA	
Walla Walla		Walsh Creek		West Little Walla Walla River		32-Walla Walla	
SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Walsh Creek Diversion	350609410021	6 N.	35 E.	9	NE¼SE¼	46.0107° N	118.4315° W
Datum: NAD83/WGS84							

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

350609410021

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Beginning 2 rods north of the center of the SE¼ of Section 9, Township 6 N, Range 36 E.W.M; thence north 509 feet; thence east 1136 feet; thence south 509 feet; thence west 1136 feet to the point of beginning.

REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

Proposed Works

Pumpstation and big gun

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	Completed	In Full Use

Measurement of Water Use

How often must water use be measured?	Monthly
How often must water use data be reported to Ecology?	Annually (Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (cfs)

Provisions

When the supply of water for irrigation purposes from April 1 to October 1 is insufficient in the Walla Walla Valley to fill any right contained in the foregoing schedule, the owner of such right is entitled to divert water during the period of October 1 to April 1.

Measurements, Monitoring, Metering and Reporting

An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Eastern Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Eastern Regional Office for forms to submit your water use data.

Department of Fish and Wildlife Requirement(s)

The intake(s) must be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://wdfw.wa.gov/about/contact/>

No dam or weir may be constructed in connection with this diversion.

Water Use Efficiency

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

Schedule and Inspections

Department of Ecology personnel, upon presentation of proper credentials, will have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Real Estate Excise Tax

This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 Internet: <http://dor.wa.gov/>. E-mail: REETSP@DOR.WA.GOV.

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application for change to Walla Walla River Adjudicated Surface Water Certificate No. 349, subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW Ste 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this 7th day of January, 2015.



Keith L. Stoffel, Section Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

INVESTIGATOR'S REPORT

Dan Tolleson, Department of Ecology
Water Right Control Number CS3-*28349J
REYNOLDS B W

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number CS3-*28349J (Walla Walla River Adjudicated Surface Water Certificate No. 349). Ms. Strong proposes to change the point of diversion of Walla Walla River Adjudicated Surface Water Certificate No. 349 (WWAC 349).

EXISTING Water Right Attributes

Water Right Owner:	B.W. Reynolds
Priority Date:	1/1/1889 (class 27)
Place of Use	Beginning 2 rods north of the center of the SE¼ of Section 9, Twp. 6 N., Rge 35 E.W.M.; thence north 509 feet; thence east 1,136.19 feet; thence south 509 feet; thence west 1,136.19 fee to the point of beginning.

County	Waterbody	Tributary To	WRIA
Walla Walla	Walsh Creek	West Little Walla Walla River	32-Walla Walla

Purpose	Diversion Rate	Annual Quantity (Af/Yr)
Irrigation of 13.25 acres	0.176 CFS from 04/01 to 07/01 0.133 CFS from 07/01 to 10/01 0.266 CFS from 10/1 to 04/01	66.25

Source Name	Parcel	Twp	Rng	Sec		Latitude	Longitude
Walsh Creek		6N	35E	15	Lot 1		

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum in NAD83/WGS84.

REQUESTED Water Right Attributes

Applicant Name:	Linda Strong
Date of Application:	4/5/2007
Place of Use	No change

County	Waterbody	Tributary To	WRIA
Walla Walla	Walsh Creek	West Little Walla Walla River	32-Walla Walla

Purpose	Diversion Rate	Annual Quantity (Af/Yr)
Irrigation of 13.25 acres	0.133 CFS from 04/01 to 07/01 0.133 CFS from 07/01 to 10/01 0.133 CFS from 10/1 to 04/01	66.25

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Walsh Creek	350609410021	6N	35E	9	NE¼SE¼	46.0107° N	118.4315° W

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum in NAD83/WGS84.

Legal Requirements for Requested Change

The following is a list of requirements that must be met prior to authorizing the proposed change.

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the Walla Walla Union-Bulletin on May 13 and 20, 2007. This notice had a ministerial error. An amended notice of this application was published in the Walla Walla Union-Bulletin on July 27 and August 3, 2007. No protests were filed against this application.

Consultation with the Department of Fish and Wildlife

The Department must give notice to the Department of Fish and Wildlife of applications to divert, withdraw or store water. A letter was received from WDFW on 9/25/2014 that indicated they do not oppose the change since it will not have any additional impacts. The project is subject to state Hydraulic Code (Chapter 77.55 RCW) and fish screening statutes (RCW 77.57.010, RCW 77.57.040 and RCW 77.57.070). Contact the Department of Fish and Wildlife, at 600 Capitol Way N, Olympia, WA 98501-1091, Attention: Habitat Program or by phone at (360) 902-2534, if you have questions about screening criteria.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- (a) It is a surface water right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater right application for more than 2,250 gallons per minute;
- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

Water Resources Statutes and Case Law

RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other water rights.

The Washington Supreme Court has held that Ecology, when processing an application for change to a water right, is required to make a tentative determination of extent and validity of the claim or right. This is necessary to establish whether the claim or right is eligible for change. *R.D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp*.

INVESTIGATION

In considering the proposed application, the investigation included, but was not limited to, research and review of: (1) appropriate rules and statutes; (2) other water rights, permits, and claims; (3) USGS topographic maps and aerial photographs; (4) diversion works, ditch systems and place of use; (5) Chapter 173-532 WAC Water Resources Program for the Walla Walla River Basin, WRIA 32 and Watershed Planning; (6) State of Washington Irrigation Guide (Natural Resources Conservation Service 1997); (7) Walla Walla River Adjudication; and (8) discussions with Department of Ecology regional program staff.

A field investigation was conducted by Dan Tolleson, with Linda Strong, on September 23, 2014. The project is located south of College Place, Washington near the Oregon Stateline. The water right is located in the Walla Walla Basin, which is managed under Chapter 173-532 WAC Water Resources Program for the Walla Walla River Basin, WRIA 32.

The authorized place of use, lies east of Valley Chapel Road within portions of the NE¼SE¼ of Section 9, T. 6 N., R. 35 E.W.M. Walsh Creek is located along the eastern boundary of the project and has some riparian vegetation. The place of use is primarily irrigated pasture land with one house and a few small out buildings. The irrigation system consists of a big gun that is used for the irrigation of the pasture.

The authorized source is Walsh Creek which is a spring branch that originates in Oregon. This stream is mostly channelized and has the characteristics of an irrigation ditch, with many straight-line sections. The authorized point of diversion is proposed to be changed from an abandoned ditch near the state line to the existing pumping station located directly downstream. The proposed point of diversion consists of a gas centrifugal pump, meter and fish screen.

According to the land owners, domestic water use for the house and irrigation of the yards immediately adjacent to the home is provided under the exemption (RCW 90.44.050).

History of Water Use

Walla Walla River Surface Water Certificate No. 349 was issued in 1929 under the adjudication. Aerial photographs were used to help verify the extent of development, historical and beneficial use of the water right. The place of use consists of approximately 13.25 acres, which is the same as the water right authorizes. Historically, Ms. Strong's land was part of a larger project that had access to multiple water rights and sources. Certificate 349 is a primary additive water right that was historically used for irrigation on her lot. She has continued to irrigate approximately 13 acres of pasture since she obtained the lot about 20 years ago. The immediate yard around the house is irrigated under the exemption. This reduction in the acres irrigated is due to roads, the house, the yard and riparian vegetation along Walsh Creek. Therefore, one-quarter of an acre of irrigation under this water right has been relinquished due to non-use.

The pump station was sized to this water right and provides the maximum instantaneous quantities authorized for the summer season. This pump has been in place since 2006 and has only utilized one pumping rate. Therefore, the higher off season instantaneous quantities have been relinquished due to non-use. The maximum authorized quantities for Ms. Strong's portion of the right is 0.133 CFS (59.6 gpm) from 04/01 to 07/01, 0.133 CFS (59.6 gpm) from 07/01 to 10/01 and 0.133 CFS (59.6 gpm) from 10/1 to 04/01, when allowed under the adjudication. Water is typically available from the source but not always in the quantities authorized.

The maximum authorized water duty of this certificate is 5 acre-feet per year, per acre. According the adjudication, 4.2 acre-feet per acre is the maximum allowed when water is available during the regular irrigation season, which is from April 1 to October 1. If a full quantity of water is not available during the regular irrigation season, then water may be diverted from October 1 to April 1 up to a maximum of 5 acre-feet per acre. Historically, this right has been used to irrigate pasture and yard. The State of Washington Irrigation Guide (WA210-VI-WAIG) states that a 2.9 acre-feet, per acre, for pasture is required in the Walla Walla area. At a 75% efficiency rate of application, the maximum water duty, for crop listed above, is up to a maximum of 3.9 acre-feet per year, per acre. This results in an allocation of 50.7 acre-feet per year for the irrigation of 13 acres.

Proposed Use

The purpose of this change is to correct the location of the point of diversion. The applicant proposes to move the point of diversion downstream to the existing pump station.

Other Rights Appurtenant to the Place of Use

A review of Ecology records were conducted for existing water right certificates, permits, and claims appurtenant to the project. The search focused primarily on Sections 9 and 10, T. 6 N., R. 35 E.W.M. The review of Ecology records shows three other water rights being appurtenant to the authorized place of use.

Water Right	Priority Date	Source	Use	Other use and notes
*381-D	1943	A well	Irrigation of 10 acres & DG	Overlaps whole POU, large legal
*59-A	1945	A well	Irrigation of 70 acres	Overlaps small part of POU
*3429-A	1958	A well	Irrigation of 10 acres	Overlaps east half of POU

Certificate Nos. 59-A, 381-A and 3429-A overlap the place of use of Certificate No. 349, however, Ms. Strong does not use any of these water rights on her land.

The validity and extent of above listed water rights are not determined in this report.

Impairment Considerations

“Impair” or “impairment” means to 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection; and/or 2) to prevent the beneficial use of the water to which one is entitled; and/or 3) to adversely affect the flow of a surface water course at a time when the flows are at or below instream flow levels established by rule (POL-1200); and/or 4) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150). Demonstration of impairment would require evidence of a substantial and lasting or frequent impact reflecting such conditions.

The applicant is requesting authorization to change the point of diversion of Walla Walla River Adjudicated Certificate No. 349, downstream approximately ½ of a mile to an existing pump station. There is no significant change in the stream or major diversions between the authorized and proposed points of diversion. The proposed pump station has been in use for the last seven years without any complaints. Therefore, no impairment is anticipated by changing the authorized point of diversion. The proposed change will not increase the amount of water withdrawn from Walsh Creek nor will it increase or expand the right.

Conclusions

In conclusion, there is a water right available for change under Walla Walla River Adjudicated Certificate No. 349. In accordance with Chapters 90.03 RCW, approval of this application to change the authorized point of diversion will not enlarge the quantity of water historically authorized, nor will it impair existing rights provided the terms and conditions above are followed.

The amount of water recommended is a maximum limit that shall not be exceeded, and the water user may only use that amount of water within the specified limit that is reasonable and beneficial. This authorization does not increase in any way the original amounts authorized by the certificate.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right change be approved in the amounts and within the limitations listed below and subject to the provisions listed above.

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

0.133 cubic feet per second
50.7 acre-feet per year
13 acres of irrigation

Point of Diversion

NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 9, Township 6 North, Range 35 E.W.M.

Place of Use

As described on Page 1 of this Report of Examination.



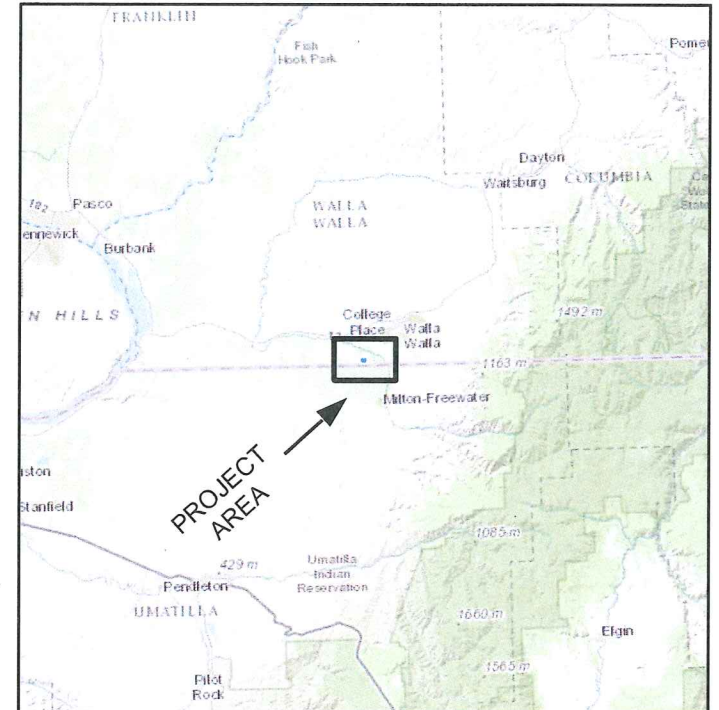
1-7-2015

Dan Tolleson, Report Writer

Date

If you need this publication in an alternate format, please call the Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

Linda Strong
WWRAC 349
T06N/R35E



Basemap - (ESRI US Topographic Maps)

Legend



Authorized Place of Use



Townships



Sections



Authorized Point of Diversion

0 660 1,320 2,640 3,960 5,280 6,600 Feet
Basemap - (NAIP 2013 1m color)



Map Date: 12/1/2014



Comment:

Place of use and source locations are as defined within the Report of Examination cover sheet for the document identified in the header above.